
By: **Delegates Vallario, Bohanan, Brown, Carter, Gutierrez, Hutchins,
O'Donnell, Simmons, Wood, and Zirkin**

Introduced and read first time: February 7, 2003

Assigned to: Appropriations

Reassigned: Judiciary, February 12, 2003

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 20, 2003

CHAPTER _____

1 AN ACT concerning

2 **State Government - State Law Enforcement Officers - Application for Lost**
3 **Pay and Attorneys' Fees**

4 FOR the purpose of ~~requiring the Board of Public Works to reimburse certain State~~
5 ~~law enforcement officers that have applied for lost back pay and reasonable~~
6 ~~attorneys' fees after having been investigated for or charged with criminal~~
7 ~~charges under certain circumstances, if the investigation has concluded and~~
8 ~~criminal charges have not been filed against the officer or if certain final~~
9 ~~dispositions of all of the charges occur; eliminating a requirement to have the~~
10 Attorney General or the Attorney General's designee make a determination of
11 the applicant's good faith under certain circumstances; requiring the Board of
12 Public Works to approve payment of lost wages and reasonable attorneys' fees
13 resulting from a certain suspension without pay to an applicant from a State
14 law enforcement agency under certain circumstances; prohibiting the Board
15 from approving certain payments under certain circumstances; providing for the
16 application of this Act; and generally relating to an application to the Board by
17 a State law enforcement officer for lost back pay or reasonable attorneys' fees
18 under certain circumstances.

19 BY repealing and reenacting, without amendments,
20 Article - Public Safety
21 Section 3-112(c)
22 Annotated Code of Maryland
23 (As enacted by Chapter _____(S.B. 1) of the Acts of the General Assembly of
24 2003)

1 BY repealing and reenacting, with amendments,
 2 Article - State Government
 3 Section ~~12-314~~ and 12-315
 4 Annotated Code of Maryland
 5 (1999 Replacement Volume and 2002 Supplement)

6 BY repealing and reenacting, without amendments,
 7 Article - State Government
 8 Section 12-314
 9 Annotated Code of Maryland
 10 (1999 Replacement Volume and 2002 Supplement)

11 BY adding to
 12 Article - State Government
 13 Section 12-315.1
 14 Annotated Code of Maryland
 15 (1999 Replacement Volume and 2002 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Public Safety**

19 3-112.

20 (c) (1) If a law enforcement officer is charged with a felony, the chief may
 21 impose an emergency suspension of police powers without pay.

22 (2) A law enforcement officer who is suspended under paragraph (1) of
 23 this subsection is entitled to a prompt hearing.

24 **Article - State Government**

25 12-314.

26 Subject to the limitations in this Part III of this subtitle, the Board of Public
 27 Works ~~may~~ **SHALL** approve reimbursement of a State officer or State employee or
 28 otherwise pay for ~~LOST WAGES AND~~ reasonable counsel fees that the officer or
 29 employee incurred:

30 (1) in connection with a criminal investigation into conduct as an officer
 31 or employee if the investigation has concluded and criminal charges have not been
 32 filed against the officer or employee; or

33 (2) in defending against criminal charges that related to conduct as an
 34 officer or employee if final disposition of all of the charges does not result in a plea of
 35 nolo contendere, a guilty plea, or a finding of guilt.

1 12-315.

2 (a) The Board of Public Works may not provide reimbursement or payment
3 under this Part III of this subtitle unless:

4 (1) the State officer or State employee submits to the Board a written
5 application for reimbursement; and

6 (2) the Attorney General certifies that:

7 (i) the applicant retained counsel;

8 (ii) the applicant gave the Attorney General written notice
9 promptly after counsel was retained; and

10 (iii) EXCEPT AS PROVIDED IN § 12-315.1 OF THIS SUBTITLE, after
11 review of the evidence and other information, the Attorney General or a designee
12 appointed under this section made the following determinations:

13 1. in connection with the matter under criminal
14 investigation, the applicant discharged the public responsibilities in good faith, did
15 not engage in unlawful conduct, and was reasonable in retaining counsel and
16 incurring the counsel fees for which reimbursement is sought; or

17 2. in connection with the matter that was the subject of
18 criminal charges, the applicant discharged the public responsibilities in good faith
19 and incurred reasonable counsel fees.

20 (b) Notwithstanding subsection (a)(2)(ii) of this section, the Board of Public
21 Works may approve reimbursement to an applicant who fails to give the Attorney
22 General notice promptly after counsel is retained if the Board determines that the
23 failure is for good cause.

24 (c) If the Attorney General believes that it would be inappropriate for the
25 Attorney General to make the determinations under subsection (a)(2)(iii) of this
26 section, the Attorney General or the Board of Public Works may designate other
27 counsel to carry out that duty.

28 (d) The determinations of the Attorney General or designee under this section
29 are not subject to judicial review.

30 12-315.1.

31 (A) ~~THE SUBJECT TO THE LIMITATIONS OF SUBSECTION (B) OF THIS SECTION,~~
32 ~~THE~~ BOARD OF PUBLIC WORKS SHALL APPROVE PAYMENT OF LOST WAGES AND
33 REASONABLE ATTORNEYS' FEES RESULTING FROM A SUSPENSION WITHOUT PAY TO
34 AN APPLICANT FROM A STATE LAW ENFORCEMENT AGENCY UNDER THIS SUBTITLE,
35 LESS ANY AMOUNT FOR LOST ~~PAY~~ WAGES RESULTING FROM AN UNRELATED
36 ADMINISTRATIVE SUSPENSION OR DISCIPLINARY ACTION, IF:

1 (1) THE SUSPENSION WITHOUT PAY OCCURRED AS A RESULT OF ONE OR
2 MORE CRIMINAL CHARGES AGAINST THE APPLICANT; AND

3 (2) THE FINAL DISPOSITION OF EACH CRIMINAL CHARGE AGAINST THE
4 APPLICANT RESULTED IN A DISMISSAL, NOLLE PROSEQUI, OR AN ACQUITTAL.

5 (B) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE PAYMENT UNDER THIS
6 SECTION IF:

7 (1) THE APPLICANT IS TERMINATED FROM EMPLOYMENT WITH THE
8 STATE LAW ENFORCEMENT AGENCY AS A RESULT OF AN ADMINISTRATIVE
9 PROCEEDING RESULTING FROM THE SAME CRIMINAL CHARGES; OR

10 (2) THE APPLICANT RESIGNS FROM THE APPLICANT'S POSITION WITH
11 THE STATE LAW ENFORCEMENT AGENCY BEFORE RESUMING DUTIES FOR PAY.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
13 construed to apply retroactively and shall be applied to and interpreted to affect any
14 application for payment for lost wages or attorneys' fees described in this Act filed on
15 or after September 25, 2000.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2003.